

REMARKS/ARGUMENTS

Claims 1-19 are currently pending in the instant application. Claims 1, 3, 5, 6, 8, 14, 17, and 18 are amended herein.

Applicant acknowledges receipt of the above-identified Office Action, and respectfully traverses the Office Action in its entirety.

DRAWINGS

Applicant acknowledges receipt of the Examiner's objections to the drawings. In response, Applicant has amended the specification to include the attached FIG. 1b. Support for FIG. 1b can be found, inter alia, in Claim 7, as filed. As such, no new matter has been introduced in the specification.

CLAIM REJECTIONS – 35 U.S.C. §112 SECOND PARAGRAPH

The Examiner rejected Claims 3, 5-6, and 17-18 under 35 U.S.C. §112, second paragraph. Applicant thanks the Examiner for suggesting an amendment to Claim 3 to overcome the rejection, and Applicant has amended Claim 3 to correct the language recited therein. Applicant's amendments to Claim 3 having rendered the rejection moot, Applicant respectfully requests that the Examiner withdraw the rejection of Claim 3. Claims 5 and 6 depend from Claim 3, and Applicant asserts that, with respect to the rejection of these claims under 35 U.S.C. §112, second paragraph for their dependency on Claim 3, the rejection is moot, and Applicant respectfully requests that the rejection be withdrawn.

The Examiner rejected Claims 5 and 17 under 35 U.S.C. §112, second paragraph and asserted that there was insufficient antecedent basis for the limitation "the frequency" in the first line of each respective claim. Applicant's amendments to Claims 5 and 17 having rendered the rejection moot, Applicant respectfully requests that the Examiner withdraw the rejection.

The Examiner rejected Claim 18 under 35 U.S.C. §112, second paragraph for its dependency upon Claim 3. Applicant respectfully calls the Examiner's attention to the fact that even prior to the current amendments, Claim 18 did not depend from Claim 3. However, Applicant has amended Claim 18 to depend from Claim 15, which further depends from independent Claim 14. Claim 18 not being dependent upon Claim 3, Applicant respectfully requests that the Examiner withdraw the rejection.

The Examiner rejected Claim 6 under 35 U.S.C. §112, second paragraph and asserted that the limitation of Claim 6 for the outermost pair of drivers conflicts with the limitation of Claim 5 for the outermost pair. Applicant's amendments to Claims 5 and 6 having rendered the rejection moot, Applicant respectfully requests that the Examiner withdraw the rejection.

The Examiner rejected Claim 18 under 35 U.S.C. §112, second paragraph and asserted that the limitations in Claim 18 conflict with those of Claim 17. Applicant's amendments to Claim 18 having rendered the rejection moot, Applicant respectfully requests that the Examiner withdraw the rejection.

CLAIM REJECTIONS - 35 U.S.C. §102

The Examiner rejected Claims 1-2, 14-15, and 17-19 under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,991,687 to Oyaba et al ("Oyaba"). The Examiner takes the position that Oyaba teaches a directional speaker system that comprises a line of paired speakers with particular operating frequencies and respective spacings. Applicant respectfully disagrees, and traverses the rejection. At column 1 line 63 through column 2, line 5, Oyaba discloses a speaker system in which "the frequency range to be reproduced is divided at an arbitrary frequency or division frequency into a higher frequency range and a lower frequency range, each of which being reproduced through a corresponding pair of speakers" (emphasis added). The distinct frequency division is important to meet Oyaba's goal of "causing a strong sound pressure in a specific direction by mutual interference of acoustic waves" (column 1, lines 8-10). Applicant's invention as recited in Claims 1-2, 14-15, and 17-19 does not divide the sound at a division frequency into different ranges which are reproduced through a corresponding pair of speakers. Instead, in Applicant's invention as claimed, each subsequent pair of drivers or transducers reproduces a subset of the frequency band associated with the first pair of drivers or transducers. Oyaba neither teaches nor suggests subsequent pairs of drivers reproducing a subset of the frequency band associated with a first pair of drivers. The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). Oyaba clearly fails to teach or suggest structure positively recited and claimed in Applicant's independent claims arranged as in the claims. Thus, Oyaba does not anticipate

Applicant's invention as claimed and Applicant's invention is patentable over Oyaba. Applicant respectfully requests that the Examiner withdraw the rejection.

CLAIM REJECTIONS - 35 U.S.C. §103

The Examiner rejected Claims 3 and 5-7 under 35 U.S.C. §103(a) as being unpatentable over Oyaba, further in view of U.S. Patent No. 4,656,606 to Flanagan. Applicant respectfully disagrees, and reasserts the arguments set forth above with respect to the Examiner's rejection under 35 U.S.C. §102(b). It is well established that, in order to show obviousness, all limitations must be taught or suggested by the prior art. In Re Boyka, 180 U.S.P.Q. 580, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (CCPA 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (CCPA 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (CCPA 1973). Applicant asserts that neither Oyaba nor Flanagan, nor the combination thereof, teaches or suggests all elements of Applicant's invention as claimed. Applicant therefore respectfully requests that the Examiner withdraw the rejection.

Furthermore, Applicant asserts that one skilled in the art would not be motivated to combine Flanagan with Oyaba. Although the Examiner has alleged that there would have been motivation to combine the references, the Examiner has overlooked the fact that Oyaba is directed to a speaker system, whereas Flanagan is directed to a microphone ("[Flanagan's] invention relates to apparatus for converting sound waves to electrical signals, and more particularly, to electroacoustic transducers adapted to produce directional response patterns." (Column 1, lines 6-10)). Microphones and speakers are not analogous art, and the courts have consistently held that the prior art which can be considered in determining obviousness is that in the inventor's field of endeavor and analogous arts. See, e.g., Lamont v. Berguer, 7 PQ2d 1580 (BPAI 1988); In re Deminski, 796 F2d 436, 230 USPQ 313 (Fed.Cir.1986); In re Grout 377 F2d 1019, 153 USPQ 742 (CCPA 1967); In re Van Wanderham, 378 F2d 981, 154 USPQ 20 (CCPA 1967); and In re Wood et al., 599 F2d 1032, 202 USPQ 171 (CCPA 1979). Applicant asserts that one skilled in loudspeaker design would not be motivated to look to microphone designs in general, let alone to combine the references as suggested by the Examiner. Applicant therefore respectfully requests that the Examiner withdraw the rejection.

The Examiner rejected Claims 4, 8, 9, 11, and 16 under 35 U.S.C. §103(a) as being unpatentable over Oyaba further in view of U.S. Patent No. 5,359,664 to Steuben. Applicant

respectfully reasserts the arguments set forth above with respect the Examiner's rejection under 35 U.S.C. §102(b), and asserts that neither Oyaba nor Steuben, nor the combination thereof, teaches or suggests applicant's invention as claimed. More specifically, both Oyaba and Steuben use cross-over networks to divide the frequencies presented to each driver, rather than presenting subsequent drivers with a subset of the frequencies presented to a first driver or set of drivers. See, e.g., Steuben, Column 6, lines 11-57, esp., 49-51. The references, alone or in combination, do not teach or suggest all elements of Applicant's invention as recited in the claims, and therefore the invention is not obvious in light of the references. Applicant therefore respectfully requests that the Examiner withdraw the rejection.

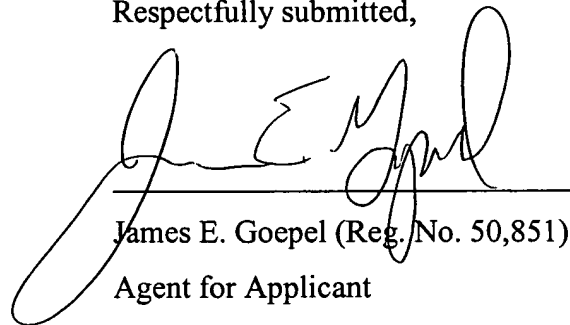
The Examiner rejected Claim 10 under 35 U.S.C. §103(a) as being unpatentable over Oyaba in view of Steuben, further in view of U.S. Patent No. 6,128,395 to DeVries. Claim 10 depends from Claims 8 and 9. Applicant respectfully asserts that Claim 10 is patentable for at least the reasons set forth above with respect to Claims 8 and 9, and requests that the Examiner withdraw the rejection.

The Examiner rejected Claims 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over Oyaba in view of Steuben, and in further view of Flanagan. Claims 12 and 13 depend from Claims 8 and 9. Applicant respectfully asserts that Claims 12 and 13 are patentable for at least the reasons set forth above with respect to Claims 8 and 9, requests that the Examiner withdraw the rejection.

CONCLUSION

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is courteously requested to contact applicant's undersigned representative.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James E. Goepel', is written over a horizontal line. The signature is fluid and cursive.

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AMENDMENTS TO THE DRAWINGS

Please insert the attached FIG. 1b as part of the specification between FIG. 1a and FIG 2.
Support for the figure can be found, inter alia, in Claim 7 as filed.

AMENDMENTS TO THE DRAWINGS

Please insert the attached FIG. 1b as part of the specification between FIG. 1a and FIG 2.
Support for the figure can be found, inter alia, in Claim 7 as filed.